

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

JUSTIN FINCH, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO.:2:10-CV-0062-WCO
)	
DONALD SHANE BROWN, et al.,)	
)	
Defendants.)	
_____)	

**DEFENDANT BROWN'S RESPONSE TO PLAINTIFFS' MOTION FOR LIMITED
EXTENSION OF TIME FOR EXPERT WITNESS DISCOVERY**

ARGUMENT AND AUTHORITY

On December 31, 2010, Defendant Brown filed his motion to exclude testimony from expert witness Judith F. Cox. Plaintiffs have filed a response in opposition to the motion to exclude.

In their response, plaintiffs contend that their expert witness disclosure was timely under Local Rule 26.2(C). As a fallback position, plaintiffs suggest that this matter can be resolved through the expedient of an extension of discovery, and plaintiffs' motion for an extension of time is the procedural mechanism by which plaintiffs seek to accomplish their objective. Defendant Brown opposes this motion.

Defendant Brown's position with regard to the timeliness of the expert witness disclosure is set forth in his original application to exclude as well as in the reply brief in support of that request. Those arguments will not be repeated here.

Movant does wish to reiterate his understanding that when the court decreed that no further extension of discovery would be allowed beyond the current deadline of January 24, 2011, it meant what it said. If the court agrees with the position articulated in the motion to exclude, the question of an extension of time for expert witness discovery is moot. Defendant Brown requests the court to make those rulings on the two pending motions i.e. grant the motion to exclude expert witness Cox and deny plaintiffs' motion for limited extension of time as moot.

On the other hand, if the court determines that the expert witness was timely, movant believes in fairness than an extension of time for the completion of expert witness discovery is warranted. Plaintiffs tacitly acknowledge the validity of that position by filing a motion for the extension of discovery with regard to the expert witness situation.

Certainly, the related issues raised by the motion to exclude and the motion to extend discovery for expert witness disclosure are matters as to which the court must exercise its discretion. The court should deny plaintiffs' motion for extension of time as a consequence of having granted the motion to exclude expert witness Cox.

Respectfully submitted,

BEGNAUD & MARSHALL, LLP

s/Andrew H. Marshall

Andrew H. Marshall

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CERTIFICATE OF SERVICE

This is to certify that I have this day served the other parties in the foregoing matter by depositing in the United States mail a copy of **Defendant Brown's Response To Plaintiffs' Motion For Limited Extension Of Time For Expert Witness Discovery** in an envelope with adequate postage addressed to:

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This 25th day of January, 2011.

s/Andrew H. Marshall
Andrew H. Marshall

LOCAL RULE 7.1(D) CERTIFICATE

I further hereby certify that this document has been prepared using Courier New (12 point) font.

This 25th day of January, 2011.

s/Andrew H. Marshall
Andrew H. Marshall